

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No : 26874 Confirmation No.
Applicant : Burgin, et al.
Serial No. : 09/944,676 Art Unit: 3715
Filed : August 31, 2001 Examiner: Kathleen Mosser
For : SYSTEM AND METHOD FOR AUTOMATED END USER SUPPORT

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is filed in response to the Examiner's Answer, mailed on January 25, 2010 ("Examiner's Answer").

I. Introduction

In general, the Examiner's Answer largely restates arguments which had already been presented during prosecution and which were adequately addressed in appellants' initial brief. However, the Response to Argument section of the Examiner's Answer includes two previously unrepresented arguments. First, the Office argues that Kobayaghi teaches the masking requirement from claim 37 based on a newly-presented analysis of the appellants' specification. Second, the Office argues that Sullivan teaches the limitations of claim 54 based on a newly-presented assertion that claim 54 "only requires that the data be used to 'provide assistance to the end user'". This answer is filed to address those arguments.

II. Claim 37

The Office's new argument regarding the masking requirement of claim 37 is flawed because it ignores the words of claim 37. Instead of addressing the masking requirement as recited in claim 37, the Office created a new masking requirement by summarizing several paragraphs of the appellants' specification as teaching that:

the "masking" of the instant invention occurs by passing all events associated with navigation through the annotation server which encodes the content of the page with the domain consistent with the domain of the second computer.¹

The Office then compared Kobayaghi to its newly created "masking" requirement from the specification:

As all events are passed through the PageManager, which has been embedded within the original page, the original page[']s domain becomes irrelevant to the rendering of the web pages on the user's computers. This process is analogous to the appellant's "annotation server" which is used to mask or hide the original domain.²

¹ Examiner's Answer at 7.

² Examiner's Answer at 8.

Based on that comparison, it concluded that “even though Kobayaghi does not explicitly use the term ‘masking’ it performs the function of masking in a manner which is analogous to that of the instantly claimed invention.”³

In response, the appellants initially note that the Office’s summary of the role of the annotation server in “masking” is inaccurate. As can be seen from figure 6 of the application as originally filed (reproduced below), events can be passed from the content frame (305) to the automated agent frame (300) directly, and do not need to be passed through the annotation server as stated by the Office.

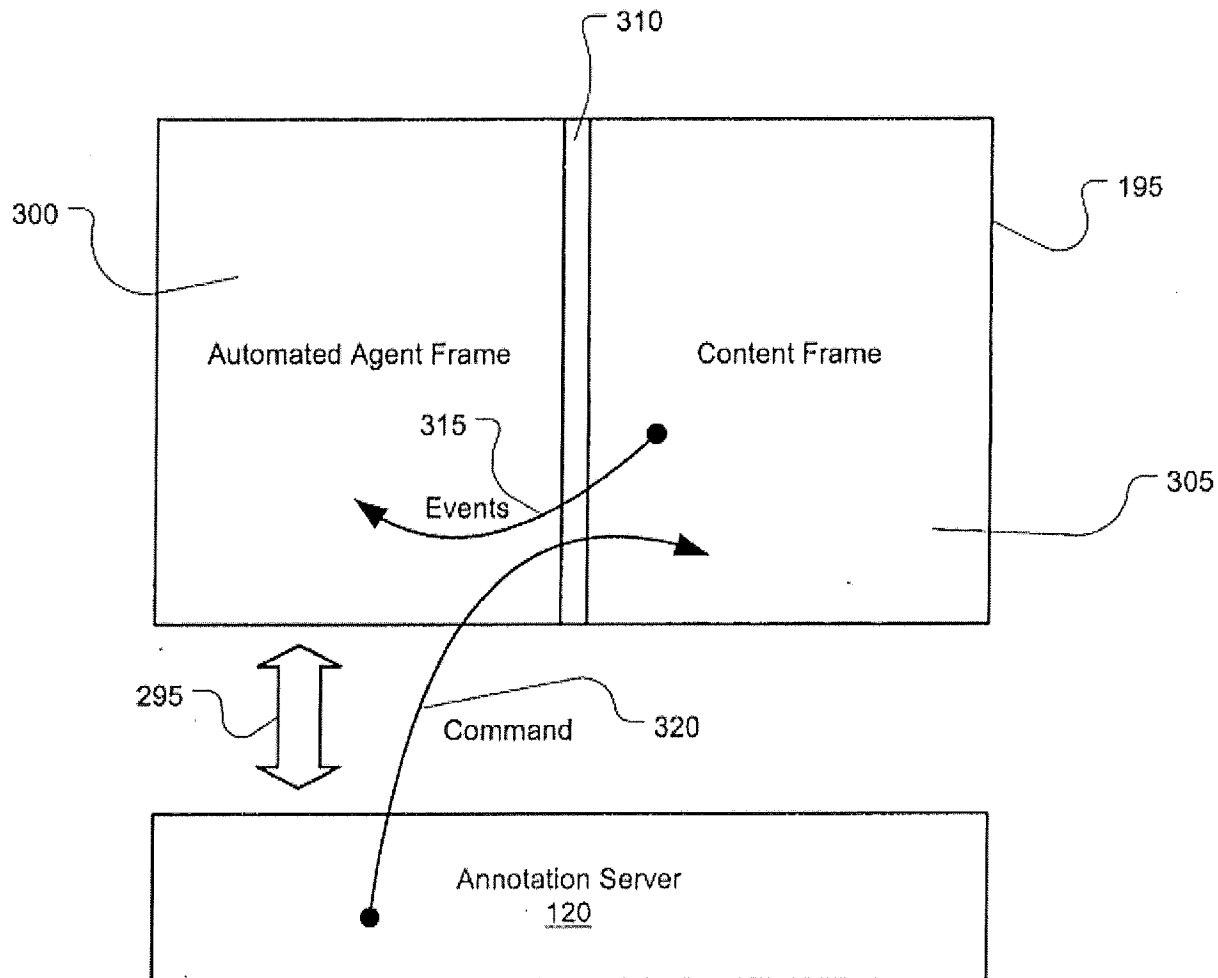


Figure 6 of Application 09/944,676: showing events being passed from the content frame to the automated agent frame, rather than passing them through the annotation server.

³ *Id.*

However, even if the Office had accurately summarized the disclosure of the present application, that summary would be irrelevant to whether claim 37 was properly rejected. The reason is that a rejection must be based on comparing the art against the claims, and the summary provided in the Examiner's Answer does *not* accurately reflect the content of claim 37. Claim 37 does not recite masking by passing navigation events through an annotation server. Rather, claim 37 recites "passing, at an end-user computer, a navigation event from a first frame originating from a first domain to a second frame originating from a second domain."⁴ The masking in claim 37 is masking a set of content from the first frame such that it appears to originate from the domain of the second frame.⁵ This is different from the Office's inaccurate summary of masking in the specification, and so the Office's argument the masking taught in the appellants' specification is similar to Kobayaghi is legally insufficient to sustain the rejection of claim 37.

When Kobayaghi is compared against the actual language of claim 37, it is clear that that reference does not teach or suggest the masking requirement as recited in that claim. As set forth in the appellants' initial brief, and reiterated above, claim 37 requires masking content from the first frame (where the navigation event is passed from) so that it appears that the content originates from the domain of the second frame (where the navigation event is passed to). In Kobayaghi, instead of masking content, the system overcomes the consistent page domain requirement by passing events through a PageManager. The PageManager communicates with a NodeManager that is independent of whatever is being displayed on the end-user computer, and has an identical domain with the PageManager.⁶ This is not substantially identical to the masking recited in claim 37, because it renders the domain of content being displayed irrelevant by sharing events between components having the same domain, rather than masking the domain of content so that it appears to have originated from the domain where an event is passed.⁷

⁴ Claim 37, clause (a). The appellants note that this is entirely consistent with the disclosure of figure 6, which also recites that events are passed between frames, rather than being passed through an annotation server.

⁵ Claim 37, clause (a) ("wherein the first frame comprises a set of content, wherein the set of content is masked such that it appears to originate from the second domain.").

⁶ Kobayaghi, col. 2, ll. 60-61 ("A NodeManager resides in a page independent from the shared Web window...A PageManager and a NodeManager are embedded as Java applets which have an identical domain.").

⁷ This argument was originally made on pages 15-16 of appellants' initial brief, and is recapitulated here for ease of reference.

Accordingly, as set forth in the initial brief, the art of record fails to teach or suggest the masking requirement from claim 37, and therefore the rejection of that claim should be reversed.

III. Claim 54

The new argument regarding claim 54, like the new argument for claim 37, is flawed because it ignores the words of the claim. In the initial brief, the appellants' argued that the only use of data gathered in the live support sessions of Sullivan is to improve future live support.⁸ In response, the Office asserts that Sullivan teaches gathering data from live and automated support sessions, and analyzing data to improve on automated help sessions.⁹ The Office concludes that this is sufficient to justify the rejection of claim 54 because:

The claim only requires that the data be used to “provide assistance to the end-user” it makes no requirements on how the data is used. The improvement of the support system which an end-user accesses for future help, clearly meets the requirement of using the data to provide assistance as required by the claim.¹⁰

However, even assuming that the Office's characterization of Sullivan is accurate, the Office's conclusion is clearly wrong. Claim 54 recites:

- (a) gathering help data associated with the live help session;
- (b) updating a knowledge database with the help data; and
- (c) using the help data from the updated knowledge database in a subsequent automated help session to **provide assistance to the end-user.**

The Office's argument treats claim 54 as if it only included the bold text, rather than specifically reciting that the data is used to update a knowledge database and then is used as part of the updated knowledge database in a subsequent automated help session. Accordingly, the Office's

⁸ Initial Brief at 22-23.

⁹ Examiner's Answer at 11:

In column 3, lines 39-51 Sullivan briefly describes that all information relating to help sessions (both automated and live) are passed to technical support for reporting and analysis. This reporting and analysis are described in both column 12, lines 54-62 and in column 13 lines 3-28. Both of these citations discuss the ability to analysis [sic] the data from the previous sessions to improve on automated help sessions.

¹⁰ Examiner's Answer at 11 (emphasis added).

new assertion that using data to provide any kind of improvement to an automated system satisfies the limitations of claim 54 is legally insufficient to support the rejection of that claim.

Further, even if the Office hadn't reduced claim 54 to only its last five words, the response to the appellants' arguments on that claim is flawed because it does not accurately represent the disclosure of Sullivan. For example, in response to the argument that lines 5-60 of column 3 teach that live support data is only used to improve future live support, the Office, for the first time, argued that "[i]n column 3, lines 39-51 Sullivan briefly describes that all information relating to help sessions (both automated and live) are passed to technical support for reporting and analysis."¹¹ However, this is simply incorrect. There are two paragraphs in lines 39-51 of column 3. The first is undeniably limited to gathering and reporting information about an automated support session because it explicitly states that

[w]hen the user selects this option [to escalate to live help], information about the user's **self service efforts** is provided to the technical support server so that the user does not need to repeat or otherwise describe to the SE those actions that have already been considered or tried.¹²

The second is also clearly directed only to gathering and reporting information about an automated support session. That second paragraph, quoted in full, reads as follows:

When the guided support is complete, whether successful in the first instance or through escalation to live-help, the information about the incident is passed to the technical support server for reporting and analysis purposes.¹³

That information gathered during the guided support cannot be treated as information associated with a live help session, because Sullivan specifically states that "'Guided' support means the system guides the user to find an answer to his or her technical support question or problem."¹⁴ Accordingly, as set forth in the initial brief, Sullivan simply does not teach the limitations of claim 54 which state that information associated with a live help session is used in subsequent automated support sessions. Since the Office's argument to the contrary requires both ignoring

¹¹ Examiner's Answer at 11.

¹² Sullivan, column 3, lines 41-46 (emphasis added).

¹³ Sullivan, column 3, lines 47-51.

¹⁴ Sullivan, column 2, lines 16-18.

limitations from claim 54, and does not accurately represent the technology of Sullivan, that argument should be rejected, and the rejection of claim 54 should be reversed.

The Commissioner for Patents is hereby authorized to charge any deficiency or credit any overpayment of fees to Frost Brown Todd LLC Deposit Account No. 06-2226.

Respectfully submitted,

Burgin et al.

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